

ADVISORY OPINION 2004-007

Any advisory opinion rendered by the registry under subsection (1) or (2) of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the advisory opinion is rendered. KRS 121.135(4).

October 15, 2004

Ms. Pamela Justice
156 Old Maytown Hill
Langley, KY 41645

Dear Ms. Justice:

This is in reference to your September 13, 2004 letter requesting on behalf of the Greg Stumbo for Attorney General campaign an advisory opinion concerning whether an event for campaign workers and prospective voters on the Belle of Louisville would constitute an allowable campaign expenditure. You state that, by letter of intent, Mr. Stumbo has informed the Registry that he intends to begin raising and spending funds toward his re-election to the office of Attorney General in 2007. You explain that Mr. Stumbo plans to host a rally this fall, as he did during his 2003 campaign, on the Belle of Louisville. You also explain that the event would include meals and beverages. Mr. Stumbo would like to use funds existing in his 2003 general election campaign account for this purpose. You ask the following specific questions, the Registry's response to which follows:

- 1. Is the expenditure of funds from the campaign account of AG Stumbo for meals, beverages and entertainment for prospective voters and campaign workers an allowable campaign expenditure pursuant to KRS 121.175?**

KRS 121.175(1) defines allowable campaign expenditures in pertinent part as “reimbursement for actual expenses, made directly and primarily in support of or opposition to a candidate...” The statute specifically provides that allowable campaign expenditures may include:

Expenditures for staff salaries, gifts and meals for volunteer campaign workers, food and beverages provided at a campaign rally, advertising, office space, necessary travel, campaign paraphernalia, purchases of advertisements in athletic and scholastic publications, communications with constituents or prospective voters, polling and consulting, printing, graphic arts, or advertising services, postage, office supplies, stationary, newsletters, and equipment which is used primarily for the administration of the campaign. KRS 121.175(1).

Expenditures of funds in a campaign account for any purpose made unlawful by any other Kentucky statute or that would bestow a private pecuniary benefit are not allowable. For example, the purchase of tickets to an event which is unrelated to a political campaign or candidacy and the general distribution of such tickets for the purpose of influencing an election, either directly or indirectly, is not allowed. KRS 121.175(1), 32 KAR 2:200 § 1(2). Further, under KRS 121.055, candidates are prohibited from making expenditures or giving anything of value, either directly or indirectly, to any person in consideration for the person’s vote or moral or financial support. *See, e.g., Ellis v. Meeks*, Ky. 957 S.W.2d 213 (1998)(Court held that “making free food available to precinct workers and voters was an item of value offered by [the candidate] in exchange for their votes or moral support in violation of KRS 121.055.”). The candidate has the burden of proving that an expenditure was directly and primarily related to his candidacy. 32 KAR 2:200 §3.

Regarding the specific circumstances you propose, the expenditure of campaign funds, including reasonable expenditures for food, beverages and entertainment, for a fundraising event or rally that is directly and primarily related to Mr. Stumbo’s candidacy for Attorney General in the 2007 election is allowable. As treasurer, you should keep a receipted bill for each expenditure. KRS 121.160(2)(c).

2. May all or any portion of funds remaining in the campaign account for AG Stumbo’s successful candidacy in 2003 be utilized to pay any part of the expenditures for the event described in number 1, above.

Any unexpended funds, which have not otherwise been obligated for the payment of expenses, remaining in a campaign fund may, at the election of the candidate, be retained to seek election to the same office. KRS 121.180(10). Therefore, Mr. Stumbo may use unexpended campaign funds from his 2003 campaign to further his candidacy for re-election as Attorney General in 2007.

- 3. Is it necessary for candidate Stumbo to authorize the registration of a campaign committee to act on his behalf in order for his campaign to host the event described in number 1, above?**

No. Under KRS 121.015(3) and KRS 121.180(9) the registration of a campaign committee by a candidate is optional.

- 4. The campaign plans to pay for the printing of admission tickets to the event on the Belle of Louisville which will be distributed to prospective voters and campaign workers. Is it necessary that admission be charged in the form of contributions by check, or may tickets be distributed for free admission to this rally at which food and beverages are provided pursuant to KRS 121.175(1)?**

KRS 121.175(1) does not require a candidate to charge admission to a campaign rally. However, as stated in response to question 1 above, KRS 121.055 expressly prohibits a candidate from even indirectly giving anything of value to a voter. *See Ellis, supra* at 216.

This advisory opinion represents the Registry's consideration of the circumstances presented in your letter. If you have any further questions, please do not hesitate to contact the Registry's staff.

Sincerely,

Rosemary F. Center
General Counsel

RFC/jh

Enclosure

Cc: Registry Members
Sarah M. Jackson, Executive Director